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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **W.P.(C) 616/2015**

GREATSHIP (INDIA) LTD. ..... Petitioner
Through: Mr. Balbir Singh, Senior Advocate with Mr. Nakul Mohta and Mr. Parminder Singh, Advocates.

versus

UNION OF INDIA & ORS. ..... Respondents
Through: Mr. Kamal Nijhawan, Senior Standing counsel for R-1 and R-5 with Mr. Dinesh Kumar Gupta, Director (Drawback), Department of Revenue.
Mr. Kirtiman Singh, CGSC with Mr. Waize Ali Noor, Advocate for UOI.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **05.05.2016**

W.P.(C) 616/2015 & CM No. 1063/2015

1. The Court has been shown a copy of a letter dated 29th April 2016 addressed to Mr. Kamal Nijhawan, Senior Standing counsel for the Respondent Nos. 1 and 5 (Department of Customs) by the Director (Drawback), Ministry of Finance, Department of Revenue in which *inter alia* it is recorded that there were meetings between the Department of

Revenue and the Directorate General of Foreign Trade ('DGFT') to consider the question whether capital goods imported during 2008-10 using Served From India Scheme ('SFIS') scrips under the Foreign Trade Policy (FTP) 2004-09 can be exempt from the condition of actual user and be made eligible for alienation by applying the notification dated 1st August 2013 issued by the DGFT?

2. The letter then records that an agreement has been reached between the Department of Revenue and the DGFT that "specific individual cases of export sale of goods (other than goods defective or unfit for use), can be dealt by DGFT on merits in terms of Para 2.5 of FTP subject to the condition that export would be without claim for any export incentive, rebate, refund, drawback and/or re-credit of incentive and the condition that bringing back into India shall be treated as fresh import".

3. As far as the present petition is concerned, the Petitioner had sought permission to re-export Supply Vessel Greatship Akhila having identified a Vietnamese buyer. This Court by its order dated 22nd January 2015 permitted the Petitioner to go ahead with the sale subject to the Petitioner furnishing a bank guarantee for a sum of Rs.12 crores in favour of

Respondent No.5. Pursuant thereto the Petitioner has re-exported the said ship.

4. In view of the agreement reached between the Department of Revenue and the DGFT as spelt out in the letter dated 29th April 2016 addressed to Mr. Nijhawan there is no surviving issue as far as the present petition is concerned since the Department of Revenue and the DGFT have agreed to permit re-export of capital goods imported during 2008-10 using SFIS scrips earned under FTP 2004-09.

5. Consequently, the bank guarantee furnished by the Petitioner shall stand discharged.

6. The writ petition and the application are disposed of in the above terms.

S. MURALIDHAR, J

VIBHU BAKHRU, J

MAY 05, 2016
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